

REMARKS

Applicant recognizes with appreciation that Examiner indicates that Claims 11 – 12 would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

In this Amendment, Applicant has cancelled Claims 2 and 4 without prejudice or disclaimer, and amended Claims 1, 5, 7 and 10. Claim 1 has been amended to overcome the rejection and further specify the embodiments of the present invention. Claims 5, 7 and 10 have been amended to depend on independent Claim 1. It is respectfully submitted that no new matter has been introduced by the amended claims. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments.

REJECTIONS UNDER 35 U.S.C. § 103:

Claims 1, 2, 4 – 7 and 10 have been rejected under 35 U.S.C. § 103 as allegedly being unpatentable over DE 35 40 264, hereinafter DE ‘264, in view of Schutzer et al.; (US 3,990,471), hereinafter Schutzer. In addition, Claim 3 has been rejected under 35 U.S.C. § 103 as allegedly being unpatentable over DE ‘264 and Schutzer, further in view of Walton (US 5,494,244).

Applicant traverses the rejection and respectfully submits that the embodiments of present-claimed invention are not obvious over DE ‘264, in view of Schutzer, or over DE ‘264, in view of Schutzer, further in view of Walton. More specifically, Claims 2 and 4 have been cancelled. The rejection to these claims is moot. In addition, Claim 1 has been amended to include the features of the cancelled Claims 2 and 4, and include additional features. The term “adjustable” in Claim 1 is supported by the specification (see page 5, lines 4 – 5 and 10 – 12). Claims 3 and 5 – 12 also include these features due to their dependency on Claim 1.

In the field of device such as those disclosed in the present application, the only active member, apart from the trivial flap valve, is the adjustable element providing a force for biasing the flap towards its closed position. This is crucial to the action of the device. Applicant respectfully submits that the use of any biasing other than that shown in DE '264, whether gravitational, elastic, magnetic, etc, is not obvious over DE '264 and other references. DE '264 teaches a weight (7), slidably mounted on a protruding arm (19) attached to the flap valve, which produces a movement about the axis of tilt (11) dependent on its position upon the arm. The point of attachment of the arm can also be changed vertically providing a further means of altering the movement.

The use of a spring exerting an adjustable force to provide the sealing force, as now claimed in the present invention, has several advantages over the arrangement of the DE '264 reference. Since it is located in the plate substantially parallel to the plane of the valve frame, it does not protrude from the walls of the protected space, which might endanger people inside the space. The adjustable spring also provides a single method of altering the moment of the tilt, which avoids confusion. The device, as presently claimed, is simple and compact as compared with the device of DE '264 reference. The embodiment of the present invention comprises a minimum number of components and operating in a simple manner.

Although Schutzer discloses the feature of providing a sealing force to a flap valve by springs, these springs are not adjustable. Furthermore, Schutzer is in a different technology field from the present invention. The valve is not for controlling air pressure within a protected space. Instead, as stated in col. 1, lines 19 to 11, "[T]he purpose is to eliminate unstable and partly open positions in the check valves and to assure a complete opening of the valve." Thus, there is no requirement for the spring to be adjustable. The springs do not act as a force compensating for the weight of the flap. Therefore, it is believed that a skilled artisan in the art would not look at the disclosure of Schutzer to learn how to solve the problem. Furthermore, this disclosure would not teach how to provide an alternative adjustable sealing force for the flap valve, as shown in the DE '264.

In summary, there is no motivation to combine DE '264 with Schutzer, or further with Walton and no reasonable expectation of success for such combination. Even if they are combined, they do not teach all the features of the present invention at the time of the invention.

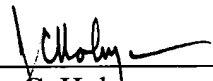
Therefore, the rejection the rejection under 35 U.S.C. § 103 has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 103 is respectfully requested.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

JACOBSON HOLMAN PLLC

Date: May 5, 2006
(202) 638-6666
400 Seventh Street, N.W.
Washington, D.C. 20004
Atty. Dkt. No.: P69465US0

By 
John C. Holman
Registration No. 22,769